

said lower course comprise insets which are seated on the protrusion[s] of the blocks of said adjacent course.

755  
cont'd 3045. The structure of claim ~~44~~<sup>29</sup> [43] wherein said retaining structure comprises a supporting matrix positioned between adjacent blocks of said upper and lower courses.

#### REMARKS

Applicants thank the Examiner for careful review specification and claims undertaken in preparation of the Office Action to which Applicants are now responding. With regard to formal matters, Applicants have amended the title, abstract, drawings, and disclosure to overcome formal rejections of the Examiners. Notably, drawings were earlier provided which show an outwardly curving surface as recited in claims 23 and 35; see Figures 4 and 6. Applicants ask that the Examiner contact its representative, John J. Gresens, if these amendments are not sufficient to overcome the formal concerns.

Turning to the formal and substantive rejections in the last Action, the Examiner has apparently rejected claims 1 through 5, 11, 16, 21, 22, 28, 29, 38, 39, and 40 through 48 under 35 U.S.C. § 112 second paragraph as being indefinite. Applicants traverse this rejection to the extent that it is maintained.

The Examiner has also apparently rejected claims 1 through 4, 17, 18, 21 through 27, 30, 31, 33 through 41, and 43 through 39 for obviousness-type double patenting. Applicants traverse this rejection to the extent that it is maintained.

The Examiner has also apparently rejected claims 1, 6, and 7 under 35 U.S.C. § 102(b) as being anticipated by Haberger, German Patent Publication 2,719,107. Applicants traverse this rejection to the extent that it is maintained.

The Examiner has also apparently rejected claim 8 under 35 U.S.C. § 103 as being unpatentable over Forsberg, U.S. Patent No. 4,914,876 in view of Haberger. Applicants traverse this rejection to the extent that it is maintained.

The Examiner has also apparently rejected claims 2, 3, 4, 5, 9, 10, and 16 under 35 U.S.C. § 103 as being unpatentable over Haberger. Applicants traverse this rejection to the extent that it is maintained.

Favorable reconsideration of all claims pending herein is respectfully requested.

Applicants have cancelled claims 1 through 11, and 16, reserving the right to refile these claims in a later, appropriately filed divisional application. The claims which remain pending in this application are claims 17 through 49, as amended.

With regard to the formal rejections under 35 U.S.C. § 112, second paragraph, Applicant has now amended the claims in question. Applicant trusts that these amendments overcome the rejections.

With regard to the rejections under 35 U.S.C. § 102 and 103, Applicant has cancelled the claims in question. Applicant has traversed the rejections for anticipation and obviousness, and

reserves its right to refile these claims and address the Examiner's arguments and the cited art at that time.

The remaining rejection is to claims 1 through 4, 17, 18, 21-27, 30, 31, 33-41, and 43-49 for obviousness-type double patenting based upon copending U.S. Patent Application Serial No. 08/322,357, which is now allowed.

The Examiner has also rejected claim 20 for obviousness-type double patenting over U.S. Patent Application Serial No. 08/447,757, still pending.

The claimed invention in this particular application is focused on an improvement to the protrusion of the block. Applicants have discovered that the use of a protrusion having side walls of a specific angle may facilitate molding of the block and provide heightened locking of the block when used in a retaining wall.

More specifically as can be seen at pages 20-24 of the specification, the protrusion may have surfaces 26A and 26B. The protrusion surface 26B may be positioned to resist the forward movement of a subsequent course of blocks. Further, surface 26A may facilitate manufacture of the block while not comprising the structural integrity of any retaining structure in which the block is used. Turning first to surface 26B, and Figure 16, protrusion surface 26B may have an angle  $\delta$ , in relationship to vertical which provides the greatest resistance towards displacement of a block on an adjacent higher course. Further, surface 26A, also seen in Figure 16, may have an angle  $\theta$ ,

which allows ease of manufacture. More specifically, lessening the angle theta prevents fill from adhering from the underside of the heated stripper shoe. In contrast, if side wall 26A has a right angle of 90°, the compressed fill forming the protrusion will slide against the walls of the indentation on the underside of the stripper shoe plate as it releases, after compression.

In sharp contrast, the specification and claims of U.S. Patent Application Serial Nos. 08/322,357 and 08/447,757 teach nothing of the angle of the protrusion surfaces. Further, there is not teaching within the specification of the cited patent application regarding use of angled protrusion side walls to ease manufacture or facilitate the interlocking of blocks.

Favorable reconsideration is respectfully requested.

#### CONCLUSION

Applicants respectfully request favorable reconsideration of all claims pending herein.

Respectfully submitted,

MERCHANT, GOULD, SMITH, EDELL,  
WELTER & SCHMIDT, P.A.  
3100 Norwest Center  
90 South 7th Street  
Minneapolis, Minnesota 55402  
(612) 371-5265

Dated: 1/22/96

By: 

John J. Gresens  
Reg. No. 33,112

JJG:dkm